

JUDGE J. WILLIAM DITTER, JR.

I. PRELIMINARY GENERAL MATTERS

A. Electronic case filing

Judge Ditter prefers that all documents be filed electronically using the Electronic Case Filing (ECF) system. Attorneys should register as ECF users at the Office of the Clerk of the Court or at the court's website at www.paed.uscourts.gov.

A copy of the "Pretrial and Trial Procedures" for Judge Ditter is available on the court's website.

B. Correspondence with the Court

Counsel or pro se parties may correspond with Judge Ditter concerning scheduling, routine matters, or to advise that a case has been settled or discontinued. All correspondence should include the case number and must be copied to opposing counsel.

C. Communications with Law Clerks

Judge Ditter permits communications with law clerks with respect to ministerial matters such as scheduling. Law clerks are not permitted to give legal advice or explain the reasons for the court's rulings.

D. Telephone conferences

Judge Ditter will hold telephone conferences to resolve scheduling or discovery disputes. Counsel requesting the conference will be responsible for initiating the telephone call and contacting chambers after all parties are present on the call.

E. Oral arguments and evidentiary hearings

Judge Ditter does not set aside certain days or times for oral arguments, motions, or evidentiary hearings.

F. Pro hac vice admissions

To be admitted pro hac vice, associate counsel of record should submit a written motion for admission. The admission of counsel pro hac vice does not relieve associate counsel of responsibility for the matter before the court.

G. Faxes

Unless specifically requested, parties should not transmit pleadings, motions, or other filings by fax.

H. Courtesy copies

Courtesy copies to the court are not required if the document has been electronically filed. In all other circumstances, the court shall be provided one (1) courtesy copy at the time of filing.

I. Courtroom assignment

Judge Ditter does not have an assigned courtroom. Counsel will be notified of the courtroom to be used the day before the hearing/trial.

II. CIVIL CASES

A. Pretrial Procedure

1. Rule 16 Conference

Judge Ditter will schedule a preliminary pretrial conference shortly after a defendant has filed an appearance or pleading. A copy of the order used by Judge Ditter is attached. At least three days prior to the conference, counsel shall submit to chambers the scheduling information report and a proposed discovery plan pursuant to Rule 26(f).

At the initial pretrial conference, the parties should be prepared to address all topics listed in Local Rule of Civil Procedure 16.1(b) and Federal Rule of Civil Procedure 16(b) and (c), the progress of self-executing disclosure under Federal Rule of Civil Procedure 26(a), and any settlement or alternative dispute resolution proposals. Counsel participating in the conference must be prepared to discuss all claims and defenses, must have a thorough understanding of the facts, and must be prepared to discuss settlement and have authority from their clients to do so. Judge Ditter will issue a Rule 16 Scheduling Order at the conclusion of the conference.

2. Continuances and extensions

When possible, Judge Ditter tries to accommodate counsel with regard to scheduling and requests for continuances or extensions. If counsel have agreed to a continuance or an extension (other than that of a trial date), they should request a continuance by letter and include the reasons for the extension, the amount of additional time needed, and that all parties agree.

Requests for continuance of trial should be made as early as possible. A request submitted on the eve of trial is not favored.

3. General motions practice

a. Oral argument

Judge Ditter will grant oral argument if he believes it will assist him in deciding the motion. A request for oral argument may be made by letter or in the body of the motion.

b. Reply and surreply briefs

Judge Ditter has no formal policy on reply or surreply briefs. If filed, they should be concise and not repetitive. Decision of the motion will not be delayed for the receipt of such briefs.

4. Discovery matters

a. Length of discovery period and extensions

Except in complex cases, Judge Ditter sets relatively short discovery deadlines - usually not to exceed ninety (90) days from the date of the Rule 16 conference. Extensions will be granted if necessary.

b. Discovery conferences and dispute resolution

Judge Ditter expects parties to resolve most discovery disputes without involving the court, and holds discovery conferences only if requested. Judge Ditter permits telephone conferences to resolve discovery disputes if not excessive.

If a motion to compel is filed, it should include the specific attempts counsel has made to resolve the issue with opposing counsel. *See Crown Cork & Seal v. Chemed Corp.*, 101 F.R.D. 105 (E.D. PA 1984). A response should be filed within five (5) days. Judge Ditter will schedule a conference (via telephone or in-person) to resolve the dispute as soon as possible.

c. Confidentiality agreements

Requested confidentiality agreements should be submitted to Judge Ditter and will be reviewed pursuant to *Pansy v. Borough of Stroudsburg*, 23 F.3d 772 (3d Cir. 1993).

d. Expert witnesses

Judge Ditter expects counsel to identify experts and exchange expert reports in a timely

manner, and will permit depositions where appropriate. Trial will not be continued because of the unavailability of an expert witness.

B. Settlement

Settlement will be discussed at the initial pretrial conference and at any subsequent conference. Judge Ditter will refer a case to a Magistrate Judge for a settlement conference if the parties request it.

C. Arbitration

Judge Ditter does not use any special practices or procedures for arbitration cases.

D. Final pretrial memoranda

Unless otherwise ordered, the pretrial memorandum should be prepared in accordance with Local Rule of civil Procedure 16.1(c) and should also include:

- 1) all stipulations of counsel;
- 2) a statement of objection (describing with particularity the ground and the authority for the objection) to the admissibility of any exhibit or evidence; to the adequacy of the qualifications of an expert; or the admissibility of any opinion testimony from lay witnesses; and
- 3) deposition testimony (including videotape deposition testimony) that the party intends to offer during its case-in-chief.

E. Injunctions

1. Scheduling and expedited discovery

Judge Ditter schedules preliminary and permanent injunction hearings quickly and will combine the two hearing where possible. He permits expedited discovery and will hold a pre-hearing conference to discuss discovery issues and narrow the issues of contention.

2. Proposed findings of fact and conclusions of law

Judge Ditter requires proposed findings of fact and conclusions of law. The time for the filing of these submissions will be set at the pre-hearing conference.

F. Trial procedure

1. Scheduling cases

Once discovery has been completed, Judge Ditter will send notices to counsel listing the case for trial.

2. Conflicts of counsel

Counsel should notify the court immediately upon learning of any unavoidable and compelling professional or personal conflicts affecting the trial schedule.

3. Cases involving out-of-town parties or witnesses

When possible, Judge Ditter tries to schedule cases involving out-of-town parties or witnesses for a date certain and to give substantial advance notice of the trial date.

4. Notetaking by Jurors

Judge Ditter permits jurors to take notes.

5. Trial briefs

Judge Ditter encourages counsel to submit trial briefs.

6. Voir dire

Judge Ditter conducts voir dire. Counsel will submit proposed questions for voir dire and Judge Ditter will incorporate those questions as he deems appropriate. At the conclusion of Judge Ditter's voir dire, he will hold a side-bar conference and give counsel the opportunity to suggest additional or follow-up questions. If circumstances require, Judge Ditter may also conduct individual voir dire at side-bar.

7. Side bars

Judge Ditter permits side-bar conferences.

8. Motions in limine

Generally, the time for filing motions in limine will be determined at the pretrial conference and will be required in advance of trial.

9. Examination of witnesses out of sequence

Judge Ditter will permit counsel to take witnesses out of turn for the convenience of the witnesses or for other good reason.

10. Opening statements and summations

Counsel are to make their opening statements and summations at the lectern using a

microphone. Judge Ditter encourages brevity and will usually set time limits for openings and closings based on discussions with counsel.

11. Examination of witnesses or argument by more than one attorney

Judge Ditter will permit more than one attorney to try the case on behalf of a party; however, only one attorney for each side may examine a particular witness. More than one attorney for a party may argue different points in a motion before Judge Ditter.

12. Examination of witnesses beyond redirect and recross

Judge Ditter will permit limited re-cross examination on matters not previously covered by cross examination or in special circumstances.

13. Videotaped testimony

Rulings on disputes or objections should be sought in advance through submission to Judge Ditter of a written transcript of the relevant testimony and the videotape should be edited accordingly prior to trial.

14. Reading of material into the record

Judge Ditter does not have any special practice or policy regarding reading stipulations, pleadings, or discovery materials into the record. He encourages counsel to stipulate to as many facts as possible.

15. Preparation of exhibits

Judge Ditter requires that the exhibits be marked and exchanged prior to trial. One copy of the exhibits and an exhibit list should be provided to the court.

16. Offering exhibits into evidence

Unless the parties have an agreement as to the admissibility of a proposed exhibit, a witness may not testify as to its content until it has been admitted into evidence.

17. Directed verdict motions

Judge Ditter usually conducts a short oral argument on motions for judgment as a matter of law and motions for involuntary dismissal. He does not have a preference as to whether such motions are written or oral.

18. Proposed jury instructions and verdict forms

Counsel should submit comprehensive proposed jury instructions in advance of trial. Counsel need not submit charges on standard matters unless specifically directed to do so. If not electronically filed, the jury instructions should be submitted in hard copy and on a disk in word perfect format. Cases and pattern jury instructions that are cited should be quoted accurately and without change and specific page references should be given. Judge Ditter conducts a charging conference prior to instructing the jury and will accept supplemental proposed jury instructions as necessary. At the end of his charge, counsel will be given the opportunity, at side-bar, to take exception, make corrections or suggest additions.

19. Proposed findings of fact and conclusions of law

Judge Ditter requires proposed findings of fact and conclusions of law in non-jury trials and citations to the evidence should be included. The proposed findings of fact and conclusions of law shall be filed one week prior to trial. Counsel will have the opportunity to file a supplement at the end of trial. If not electronically filed, the proposed findings of fact and conclusions of law should be submitted in hard copy and on a disk in word perfect format.

G. Jury Deliberations

1. Written instructions

Judge Ditter does not give the jury a written copy of the jury instructions.

2. Exhibits in the jury room

All exhibits (except for weapons, drugs, and the like) will go with the jury unless counsel agree otherwise or they contain matters that would be confusing or prejudicial.

3. Handling jury requests to read back testimony or replay tapes

If the requested portion of testimony is available, Judge Ditter will permit it to be read back or played for the jury.

4. Availability of counsel during jury deliberations

Unless excused by the court, counsel must remain in the courthouse during jury deliberations.

5. Taking the verdict and special interrogatories

Depending on the nature of the case, Judge Ditter will take a special or general verdict. He frequently submits interrogatories to the jury.

6. Polling the jury

Judge Ditter will permit the polling of the jury if requested.

7. Interviewing the jury

Judge Ditter will permit the jury to be interviewed at the conclusion of trial but he will instruct the jurors that they are not required to speak to counsel.

III. CRIMINAL CASES

At present, Judge Ditter is not handling any criminal matters.

IV. OTHER GENERAL MATTERS

A. Appellate briefs

Judge Ditter expects to receive a courtesy copy of appellate briefs.

B. Consultation with opposing counsel

Judge Ditter expects counsel to bring matters to his attention only after they have been discussed with opposing counsel.

C. Courtroom decorum

Judge Ditter expects counsel to be punctual and courteous. The examination of witnesses should be conducted from the lectern. Counsel should stand when addressing the court and should seek permission to approach a witness or the bench. To the extent possible, counsel should notify Judge Ditter of any issues that will need to be ruled on at the start of the day's proceedings or during a recess out of the jury's presence. Side bar conferences are permitted when necessary.

D. Chambers contacts

Counsel should not hesitate to contact Judge Ditter's chambers with questions about his courtroom practices or procedures.

Secretary: Mrs. Dale Ballard-Hill
(215)597-9640

Deputy Clerk: Mr. Stephen Iannacone
(267)322-6029

Law Clerks: Patricia M. Furlong, Esquire
Rebecca E. Lacher, Esquire
(215)597-9640